

**REMARKS/ARGUMENTS**

The Examiner is thanked for the performance of a thorough search.

By this amendment, Claims 1, 2, 7, 9, 11-22, 24-26 and 28 have been amended. Claims 29-36 have been added. Claims 3-5, 23 and 27 have been canceled. Hence, Claims 1, 2, 6-22, 24-26 and 28-36 are pending in the application.

New Claims 29-36 have been added to show the different combinations of data that could be included in a single file of said particular format.

**SUMMARY OF THE REJECTIONS/OBJECTIONS**

Claims 1, 2 and 6-21 are rejected under 35 U.S.C. § 101 as being unpatentable because the claimed invention is directed to non-statutory subject matter. More specifically, the “file structure” of Claim 1 and its dependents and the “computer program” of Claim 13 and its dependants are alleged to be non-statutory subject matter. Claim 1 has been amended to remove the reference to a “file structure”. Thus Claim 1 and its dependents comply with structural limitation requirements. Furthermore, Claim 13 and its dependents have been amended to remove “computer program” and replace that term with “computer-readable medium”. Thus Claims 13 and its dependents also comply with structural limitation requirements.

Claims 1, 2, 6-22, 24-26, and 28 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention. The claims recite “synthesis data” and “synthesis parameters” and the specification only clearly defines “synthesis parameters”. The claims have been amended to replace each instance of “synthesis data” to “synthesis parameter data”. The term “synthesis parameter data” is explicitly defined

within the specification and thus any violation of 35 U.S.C. § 112, first paragraph, has been traversed.

Claims 7, 9, 16 and 18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claims 7 and 16, it is asserted that the claim language makes it appear that the synthesis parameter data synthesized the MIDI data. Claim 7 and 16 have been amended to make it clear that synthesis parameter data is used as a parameter to set forth the synthesis treatment for the MIDI data and that synthesis parameter data does not itself synthesize the MIDI data. In Claims 9 and 18, it is asserted that playback parameter data can render MIDI data. Claim 9 and 18 have been amended to make it clear that playback parameter data is used as a parameter to provide special effects to the audio in rendering the MIDI data and that playback parameter data does not itself render the MIDI data. Thus, Claims 7, 9, 16 and 18 traverse the 35 U.S.C. § 112, second paragraph rejection.

#### THE REJECTIONS BASED ON THE PRIOR ART

Claims 1, 2, 6-11, 13-20, 22, 24-26, and 28 are rejected under 35 U.S.C. § 102(b) as being anticipated by ACID User Manual from Sonic Foundry, Inc. (“ACID”). As amended, Claim 1 states “...obtaining a set of waveform data, storing the set of waveform data as a component of a first file that has a particular file format”. The Office Action alleges that ACID anticipated that element of the claim because the program allows you to open \*.wav and \*.aif files. However, ACID does not disclose storing those types of files as a component of a first file that has a particular format. ACID does disclose storing \*.wav and \*.aif files in the same *folder* (p. 67), but it does not disclose storing these types of audio files as components of a first files with the same particular format.

Claims 1 and 13 recite “obtaining a set of Musical Instrument Digital Interface data, storing the set of Musical Instrument Digital Interface data as a component of a second file that has said particular file format”. The Office Action alleges that ACID discloses obtaining MIDI data. However, the pages cited by Examiner discloses a Virtual MIDI Router (VMR) which “simply transfers MIDI data from one port to another” (p. 16). ACID also teaches generating MIDI Time Code (MTC). MTC is not MIDI data but “a standard time code that most applications and some hardware devices will use to synchronize themselves” (p. 59). ACID does not disclose synthesizing or storing MIDI data. Furthermore, ACID does not teach storing the MIDI data as a component of a second file that has said particular format.

Claims 1 and 13 recite “obtaining a set of synthesis parameter data, storing the set of synthesis parameter data as a component of a third file that has said particular file format”. The Office Action alleges that this refers to envelope data. The written specification does offer envelope data as one example of synthesis parameter data. The written specification defines synthesis parameter data as the data that sets forth the specific synthesis treatment used to process a given sound (Written Specification, par. 60). Synthesis parameter data is used to normalize a synthesized instrument or sound so that it may be accurately rendered. Envelopes, as listed in ACID, are to create fades, apply crazy panning and add effects. Synthesis parameter data actually affects the shape of the sound rather than simply fade, pan or add effect to the sound. Also, ACID does not teach that envelope data is to be stored as a component of a third file that has the said particular format. For example, the envelope data is stored in an ACID project file (\*.acd), but this file format does not have the same format as that storing the MIDI or waveform data as recited in Claims 1 and 13.

Claims 1 and 13 conclude “obtaining a set of playback parameter data, storing the set of playback parameter data as a component of a fourth file that has said particular file format.”

ACID does not disclose placing playback parameter data is to be stored as a component of a fourth file that has the said particular format. Thus, ACID fails to anticipate every element of Claims 1 and 13 and the 102(b) rejection of Claims 1 and 13 is traversed.

In Claim 6 and 15, the Office Action alleges that ACID discloses generating MIDI data. However, as stated above, ACID has failed to disclose generating MIDI data and only teaches MIDI time code which is used to synchronize applications and some hardware devices. Thus Claims 6 and 15 traverse the 102(b) rejection.

Claims 2 and 6-12 are dependents of independent Claim 1. Claims 14-21 are dependents of independent Claim 13. These dependant claims also include the limitations of claims upon which they depend. These dependant claims are patentable for at least those reasons the claims upon which the dependant claims depend are patentable. Thus reconsideration of the rejection on these claims is respectfully requested.

Claims 22, 24-26 and 28 are rejected under 35 U.S.C. § 102(b) and due to the fact that the specification is silent as to any “audio instructions”. The Claims have been amended to remove any instance of “audio instructions”. Furthermore, Claims 22 and 25 recite “determining that an audio file comprising said audio waveform also comprises data that sets forth a specific synthesis treatment to be used for processing a given sound”. This limitation is not taught or disclosed in ACID. Claim 24 is a dependent of Claim 22 which includes the limitations of the independent claim upon which it depends. Claim 26 and 28 recite placing the audio waveform with data that sets forth a specific synthesis treatment or the playback parameter data. ACID only teaches placing the audio waveform within the same folder, not the same data structure. Thus, the rejection of Claims 22, 24-26 and 28 are traversed.

Claims 12 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the ACID User’s Manual in view of U.S. Patent 6,924,425 (“Naples”). As stated above, Claim 12

is a dependent of Claim 1 and Claim 21 is a dependent of Claim 13. These dependant claims also include the limitations of claims upon which they depend. These dependant claims are patentable for at least those reasons the claims upon which the dependant claims depend are patentable. Thus reconsideration of the rejection on these claims is respectfully requested.

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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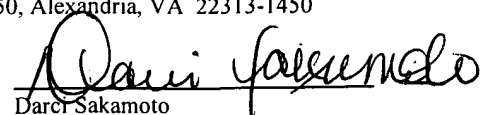
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On November 7, 2006

by

  
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